

MEMORANDUM

July 6, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: PHILIP S. MILLER
Assistant County Counsel
General Litigation Division

RE: Claim of Xiang Li

DATE OF
INCIDENT: October 20, 2004

AUTHORITY
REQUESTED: \$57,000

COUNTY
DEPARTMENT: Department of Public Works

CLAIMS BOARD ACTION:

☐ Approve

☐ Disapprove

☐ Recommend to Board of
Supervisors for Approval

_____, Chief Administrative Office
ROCKY A. ARMFIELD

_____, County Counsel
JOHN F. KRATTLI

_____, Auditor-Controller
MARIA M. OMS

on _____, 2006

SUMMARY

This is a recommendation to settle for \$57,000 a claim for damages filed by Xiang Li, whose apartment complex was damaged by water that flowed into the complex from a storm drain maintained by the County.

LEGAL PRINCIPLES

A public entity is liable under the law of inverse condemnation for damage caused to property, when the damage was caused by a public improvement as deliberately designed and constructed by the public entity, whether or not the damage was foreseeable. Inverse condemnation liability can be based on an improper maintenance plan of the public entity. A prevailing plaintiff in an inverse condemnation action is entitled to an award of reasonable attorney's fees.

SUMMARY OF FACTS

On October 20, 2004, a County-maintained storm drain in Pasadena burst, sending a wall of water onto adjacent properties. The County-maintained storm drain experienced an increase in pressure, which caused water to explode through an unsecured cover, causing water to travel onto the Xiang Li's property.

The sewage undermined a parking lot of the apartment complex, damaged staircases and invaded several units. The County's third party administrator, Carl Warren and Company, retained an appraiser to inspect the property and review the invoices submitted by Xiang Li for repairs to the property.

DAMAGES

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Clean up services	\$ 850
Damage to real property	\$62,650
Mold remediation and testing	<u>\$ 5,000</u>
Total	<u>\$68,500</u>

The proposed settlement calls for the County to pay Xiang Li \$57,000 for all of his claims for damages, costs and attorney's fees.

STATUS OF CASE

This matter is in the claim stage, and no expenses have been incurred.

EVALUATION

This is a claim of disputed liability. Should this matter become a lawsuit and proceed to trial, a jury could find that the County's storm drain maintenance plan was defective, because visual inspections were not sufficient to detect or prevent the unsecured cover. If the jury finds that the plan was defective, the County could be liable under an inverse condemnation cause of action.

A reasonable settlement at this time will avoid litigation costs and a potential jury verdict that could exceed the proposed settlement.

We join with our third party administrator, Carl Warren and Company, in recommending a settlement of this matter in the amount of \$57,000. The Department of Public Works concurs in the recommendation.

APPROVED:

PHILIP S. MILLER
Assistant County Counsel
General Litigation Division

PSM:eaw